Governor's Jobs Bill

February 16, 2012

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 1768 (Skoe) / H.F. 2277 (Mahoney)

	Fund Impact			
	F.Y. 2012	F.Y. 2013	F.Y. 2014	F.Y. 2015
		(000's)		
Jobs NOW Tax Credit	$0	$0	($32,200)	($2,800)
Reduce FOC Deduction to 70%	$0	$4,400	$3,500	$3,700
Reduce Foreign Royalty Subtraction to 70%	$0	$13,000	$10,100	$10,400
Definition of Solicitor for Nexus – Sales Tax	$0	$3,700	$4,700	$5,400
General Fund Total	$0	$21,100	($13,900)	$16,700
Definition of Solicitor for Nexus – Sales Tax **Natural Resources and Arts Funds**	$0	$200	$270	$310
Total – All Funds	$0	$21,300	($13,630)	$17,010

Jobs credits provisions are effective the day following final enactment.
Corporate tax provisions are effective for taxable years beginning after December 31, 2011.
Sale tax provisions are effective for sales and purchases made after June 30, 2012.

EXPLANATION OF THE BILL

A summary prepared by the Appeals and Legal Services Division of the Department of Revenue is attached.

REVENUE ANALYSIS DETAIL

Jobs NOW Tax Credit

- A refundable tax credit against the corporate franchise and individual income tax would be allowed to employers. The credit is allowed for the first 14,000 newly-hired employees that meet the qualifications in the bill. The credit is equal to $3,000 per employee for hires in the last nine months of calendar year 2012 and $1,500 per employee for the first six months of calendar year 2013.
- Credits are first available for persons hired after March 31, 2012. It is expected that 85% of the tentative credit applications will be for calendar year 2012 and 15% will be for 2013.
- It is estimated that 10% of the tentative claims will not meet the retention requirement.
- The credit can be claimed after the employee has completed one year of work. The credits for persons hired in 2012 will be claimed on the 2013 tax return, and the credits for persons hired in 2013 will be claimed on the 2014 tax return.
- Tax year impacts are allocated to the following fiscal year.

REVENUE ANALYSIS DETAIL (Cont.)

Reduce Foreign Operating Corporation and Foreign Royalty Deductions from 80% to 70%

- The estimates are based on model runs on the latest available corporate franchise tax data from returns received in calendar year 2010.
- The revenue estimates are adjusted downward to reflect the effect of the phase-in to 100% sales weighting in tax year 2014.
- The revenue gain is assumed to match the growth of corporate franchise tax collections in the November 2011 revenue forecast.
- All of tax year 2012 was allocated to fiscal year 2013. Other tax years were allocated 30/70 to fiscal years.

Sales Tax – Definition of Solicitor for Remote Sales Nexus Provisions

- The revenue estimate is based on first-quarter tax collections from Illinois, which has a law similar to this bill. The Illinois law became effective July 1, 2011.
- The first-quarter collections were increased by 50% to account for an early lag in return filing and conforming to the new provision. The estimate was adjusted for the difference in sales tax rates in the two states and for the difference in the Illinois and Minnesota shares of U.S. personal income.
- Census Bureau data show that from 2002 to 2007 the annual growth of electronic retail sales was about 23%. After leveling off in 2008 and 2009, growth has been about 15% in 2010 and 2011. A 15% annual growth rate was assumed through fiscal year 2015.
- The FY 2013 estimate was adjusted for the effective date of July 1, 2012.
- In Illinois, all of the prominent national "e-tailers" have dropped their solicitor arrangements. The estimates assume that a similar business response would also occur here.
- Revenues are uncertain due to potential constitutionality questions.

Source: Minnesota Department of Revenue
Tax Research Division and
http://www.taxes.state.mn.us/taxes/legal_policy

sf1768(hf2277)_1 / rrs, dkd, tfe

2012 GOVERNOR'S JOBS NOW BILL SUMMARY

MINNESOTA · REVENUE
Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

S.F. 1768

ARTICLE 1. JOBS NOW TAX CREDIT

Section 1. Jobs NOW Tax Credit. Amends Minn. Stat. ch. 290 to establish a refundable Jobs NOW Tax credit available to qualified employers who are subject to income tax or corporate franchise tax and who increase overall Minnesota employment in 2012 or 2013 and hire certain veterans, high school or college graduates, or long term unemployed persons to full time jobs. The credit is available to the employers of the first 14,000 qualified persons hired after March 31, 2012. It is equal to $3,000 per employee hired in 2012 or $1,500 per employee hired in 2013, and is payable only after the employee has worked full time for 12 consecutive months. The maximum credit for all years is $50,000 per employer.

Subdivision 1 describes the credit. For qualified full time employees hired after March 31, 2012, but before January 1, 2013, the credit is equal to $3,000 times the lesser of a) the total number of qualified full time employees hired or b) the increase in the total number of full time employees employed by the employer on December 31, 2011 versus the total number of full time employees employed by the employer on December 31, 2012.

For qualified full-time employees hired after December 31, 2012 but before July 1, 2013, the credit is equal to $1,500 times the lesser of a) the total number of qualified full time employees hired or b) the increase in the number of full time employees employed by the employer on December 31, 2011, versus the number of full time employees employed by the employer on December 31, 2013.

The credit is claimed in the taxable year in which the qualified full time employee completes 12 consecutive months of continuous service as a full time employee.

The maximum credit for all years is $50,000 per employer. For members of a unitary business, the number of full time employees and maximum credit are determined at the group level.

Subdivision 2 defines the following terms:

"Full-time employee" is an employee for wage withholding purposes who during the first 12 months of work:

a. Works for the employer in Minnesota at least 1,820 hours,
b. Performs services in at least 50 weeks, and
c. Is paid at least $25,000, including benefits not mandated by law.

A full-time employee does not include family members of the employer or family members of 50% owners of an entity that is the employer.

"Qualified employer" is an employer that:

a. Employed at least 5 full time employees on December 31, 2011, and
b. Hired one or more qualified full time employees after March 31, 2012.

"Qualified full time employee" is a full time employee who is a qualified unemployed veteran, a qualified unemployed recent graduate or a qualified unemployed job seeker.

Qualified unemployed veteran" is a person who:

a. Was in active military service in a designated combat zone after September 11, 2001;
b. Was discharged or released from service during the 5 years prior to date of hire;
c. Received unemployment compensation for at least 4 weeks during the one year period prior to date of hire; and
d. Was unemployed on the date of hire.

"Qualified unemployed recent graduate" is a person who:

a. In 2011 received a diploma, degree or certificate of completion for graduating from high school or a certificate, associate, or baccalaureate undergraduate degree from an institute of higher learning, and
b. Had not had a full time job after receiving the diploma, certificate or degree until the date of hire.

"Qualified unemployed job seeker" is a person who on the date of hire:

a. Has been receiving unemployment compensation for at least three months, or
b. Had exhausted eligibility for unemployment compensation and had not had an intervening full time job.

"Date of hire" means the day that the qualified full time employee begins performing services as an employee of the qualified employer.

"Construction trades employer" is a person carrying on a trade or business described in NAICS industry code 23.

Subdivision 3 provides the mechanism for the allocation of the credits. By July 1, 2012, the commissioner of revenue must develop an Internet application process that allows employers to apply for one or more of the 14,000 available tentative credits. The application must include employer identification information. It must also include the name, social security number, and veteran/recent graduate/job seeker status of the qualified employee.

The credit is available only to employers who receive notice from the commissioner that their application for tentative credit has been approved. The commissioner shall approve the first 14,000 applications received, based on the date that the application is received by the commissioner.

Subdivision 4 provides that construction trades employers are eligible to apply for tentative credits. However, to remain eligible for the credit, a construction trades employer must file a renewal application six months after the date of hire, confirming that the employee for whom the tentative credit was granted is still employed and that the employer reasonably believes all conditions of eligibility for the credit will be met. If the employer does not file the renewal application within seven months of date of hire, the employer's right to the credit for that employee is canceled. Any canceled tentative credits may be reissued to other eligible employers, as provided in subdivision 3.

Subdivision 5 provides that credits granted to a flow-through entity are passed through to the partners, members, shareholders or owners pro rata based on their share of the entity's assets or as specially allocated in their organizational documents.

Subdivision 6 provides that the credit is refundable to the extent that the credit exceeds the taxpayer's liability for tax.

Subdivision 7 provides an appropriation to the commissioner of revenue from the general fund to make authorized refunds.

The entire section is effective the day following final enactment.

ARTICLE 2. CORPORATE FRANCHISE TAX

Section 1. Royalties, fees, or other like income. Amends Minn. Stat. § 290.01, subd. 19d, clause (10), to reduce from 80% to 70% the subtraction for royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation that is part of the unitary group. Also amends a cross reference found in clause 15. Effective for taxable years beginning after December 31, 2011.

Section 2. Deemed dividends. Amends a cross reference found in Minn. Stat. § 290.17, subd. 4, paragraph (g), which deems the adjusted net income of a foreign operating corporation to be a dividend eligible for the dividends received deduction. Effective for taxable years beginning after December 31, 2011.

Section 3. Dividends received deduction. Amends Minn. Stat. § 290.21, subd. 4, by adding a paragraph, to reduce the deduction for deemed dividends from a foreign operating corporation from 80% to 70%. Also amends a cross reference. Effective for taxable years beginning after December 31, 2011.

ARTICLE 3. SALES AND USE TAXES

Section 1. Solicitor Nexus. Amends Minn.Stat.§ 297A.66, by adding subdivision 4a, defining the term "solicitor" and creating a rebuttable presumption that a retailer maintains a place of business in the state if they enter into an agreement with a solicitor for the referral of Minnesota customers for a fee and the retailer's gross receipts from these sales over 12 months is at least $10,000. Effective for sales and purchases made after June 30, 2012.